

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Victims' Economic Security and Safety Act is
5 amended by changing Sections 5, 10, 15, 20, 25, 30, 35, and 40
6 and by adding Section 37 as follows:

7 (820 ILCS 180/5)

8 Sec. 5. Findings. The General Assembly finds and declares
9 the following:

10 (1) Domestic and sexual violence affects many persons
11 without regard to age, race, educational level,
12 socioeconomic status, religion, or occupation.

13 (2) Domestic and sexual violence has a devastating
14 effect on individuals, families, communities and the
15 workplace.

16 (3) Domestic violence crimes account for approximately
17 15% of total crime costs in the United States each year.

18 (4) Violence against women has been reported to be the
19 leading cause of physical injury to women. Such violence
20 has a devastating impact on women's physical and emotional
21 health and financial security.

22 (5) According to recent government surveys, from 1993
23 through 1998 the average annual number of violent

1 victimizations committed by intimate partners was
2 1,082,110, 87% of which were committed against women.

3 (6) Female murder victims were substantially more
4 likely than male murder victims to have been killed by an
5 intimate partner. About one-third of female murder
6 victims, and about 4% of male murder victims, were killed
7 by an intimate partner.

8 (7) According to recent government estimates,
9 approximately 987,400 rapes occur annually in the United
10 States, 89% of the rapes are perpetrated against female
11 victims.

12 (8) Approximately 10,200,000 people have been stalked
13 at some time in their lives. Four out of every 5 stalking
14 victims are women. Stalkers harass and terrorize their
15 victims by spying on the victims, standing outside their
16 places of work or homes, making unwanted phone calls,
17 sending or leaving unwanted letters or items, or
18 vandalizing property.

19 (9) Employees in the United States who have been
20 victims of domestic violence, dating violence, sexual
21 assault, or stalking too often suffer adverse consequences
22 in the workplace as a result of their victimization.

23 (10) Victims of domestic violence, dating violence,
24 sexual assault, and stalking face the threat of job loss
25 and loss of health insurance as a result of the illegal
26 acts of the perpetrators of violence.

1 (11) The prevalence of domestic violence, dating
2 violence, sexual assault, stalking, and other violence
3 against women at work is dramatic. Approximately 11% of all
4 rapes occur in the workplace. About 50,500 individuals, 83%
5 of whom are women, were raped or sexually assaulted in the
6 workplace each year from 1992 through 1996. Half of all
7 female victims of violent workplace crimes know their
8 attackers. Nearly one out of 10 violent workplace incidents
9 is committed by partners or spouses.

10 (12) Homicide is the leading cause of death for women
11 on the job. Husbands, boyfriends, and ex-partners commit
12 15% of workplace homicides against women.

13 (13) Studies indicate that as much as 74% of employed
14 battered women surveyed were harassed at work by their
15 abusive partners.

16 (14) According to a 1998 report of the U.S. General
17 Accounting Office, between one-fourth and one-half of
18 domestic violence victims surveyed in 3 studies reported
19 that the victims lost a job due, at least in part, to
20 domestic violence.

21 (15) Women who have experienced domestic violence or
22 dating violence are more likely than other women to be
23 unemployed, to suffer from health problems that can affect
24 employability and job performance, to report lower
25 personal income, and to rely on welfare.

26 (16) Abusers frequently seek to control their partners

1 by actively interfering with their ability to work,
2 including preventing their partners from going to work,
3 harassing their partners at work, limiting the access of
4 their partners to cash or transportation, and sabotaging
5 the child care arrangements of their partners.

6 (17) More than one-half of women receiving welfare have
7 been victims of domestic violence as adults and between
8 one-fourth and one-third reported being abused in the last
9 year.

10 (18) Sexual assault, whether occurring in or out of the
11 workplace, can impair an employee's work performance,
12 require time away from work, and undermine the employee's
13 ability to maintain a job. Almost 50% of sexual assault
14 survivors lose their jobs or are forced to quit in the
15 aftermath of the assaults.

16 (19) More than one-fourth of stalking victims report
17 losing time from work due to the stalking and 7% never
18 return to work.

19 (20) (A) According to the National Institute of
20 Justice, crime costs an estimated \$450,000,000,000
21 annually in medical expenses, lost earnings, social
22 service costs, pain, suffering, and reduced quality of life
23 for victims, which harms the Nation's productivity and
24 drains the Nation's resources. (B) Violent crime accounts
25 for \$426,000,000,000 per year of this amount. (C) Rape
26 exacts the highest costs per victim of any criminal

1 offense, and accounts for \$127,000,000,000 per year of the
2 amount described in subparagraph (A).

3 (21) The Bureau of National Affairs has estimated that
4 domestic violence costs United States employers between
5 \$3,000,000,000 and \$5,000,000,000 annually in lost time
6 and productivity. Other reports have estimated that
7 domestic violence costs United States employers
8 \$13,000,000,000 annually.

9 (22) United States medical costs for domestic violence
10 have been estimated to be \$31,000,000,000 per year.

11 (23) Ninety-four percent of corporate security and
12 safety directors at companies nationwide rank domestic
13 violence as a high security concern.

14 (24) Forty-nine percent of senior executives recently
15 surveyed said domestic violence has a harmful effect on
16 their company's productivity, 47% said domestic violence
17 negatively affects attendance, and 44% said domestic
18 violence increases health care costs.

19 (25) Employees, including individuals participating in
20 welfare to work programs, may need to take time during
21 business hours to:

22 (A) obtain orders of protection or civil no contact
23 orders;

24 (B) seek medical or legal assistance, counseling,
25 or other services; or

26 (C) look for housing in order to escape from

1 domestic or sexual violence.

2 (Source: P.A. 93-591, eff. 8-25-03.)

3 (820 ILCS 180/10)

4 Sec. 10. Definitions. In this Act, except as otherwise
5 expressly provided:

6 (1) "Commerce" includes trade, traffic, commerce,
7 transportation, or communication; and "industry or
8 activity affecting commerce" means any activity, business,
9 or industry in commerce or in which a labor dispute would
10 hinder or obstruct commerce or the free flow of commerce,
11 and includes "commerce" and any "industry affecting
12 commerce".

13 (2) "Course of conduct" means a course of repeatedly
14 maintaining a visual or physical proximity to a person or
15 conveying oral or written threats, including threats
16 conveyed through electronic communications, or threats
17 implied by conduct.

18 (3) "Department" means the Department of Labor.

19 (4) "Director" means the Director of Labor.

20 (5) "Domestic or sexual violence" means domestic
21 violence, sexual assault, or stalking.

22 (6) "Domestic violence" means abuse, as defined in
23 Section 103 of the Illinois Domestic Violence Act of 1986,
24 by a family or household member, as defined in Section 103
25 of the Illinois Domestic Violence Act of 1986 ~~includes acts~~

1 ~~or threats of violence, not including acts of self defense,~~
2 ~~as defined in subdivision (3) of Section 103 of the~~
3 ~~Illinois Domestic Violence Act of 1986, sexual assault, or~~
4 ~~death to the person, or the person's family or household~~
5 ~~member, if the conduct causes the specific person to have~~
6 ~~such distress or fear.~~

7 (7) "Electronic communications" includes
8 communications via telephone, mobile phone, computer,
9 e-mail, video recorder, fax machine, telex, or pager, or
10 any other electronic communication, as defined in Section
11 12-7.5 of the Criminal Code of 1961.

12 (8) "Employ" includes to suffer or permit to work.

13 (9) Employee.

14 (A) In general. "Employee" means any person
15 employed by an employer.

16 (B) Basis. "Employee" includes a person employed
17 as described in subparagraph (A) on a full or part-time
18 basis, or as a participant in a work assignment as a
19 condition of receipt of federal or State income-based
20 public assistance.

21 (10) "Employer" means any of the following: (A) the
22 State or any agency of the State; (B) any unit of local
23 government or school district; or (C) any person that
24 employs at least 15 ~~50~~ employees.

25 (11) "Employment benefits" means all benefits provided
26 or made available to employees by an employer, including

1 group life insurance, health insurance, disability
2 insurance, sick leave, annual leave, educational benefits,
3 ~~and~~ pensions, and profit-sharing, regardless of whether
4 such benefits are provided by a practice or written policy
5 of an employer or through an "employee benefit plan".
6 "Employee benefit plan" or "plan" means an employee welfare
7 benefit plan or an employee pension benefit plan or a plan
8 which is both an employee welfare benefit plan and an
9 employee pension benefit plan.

10 (12) "Family or household member", for employees with a
11 family or household member who is a victim of domestic or
12 sexual violence or is perceived to be a victim of domestic
13 or sexual violence, means a spouse, parent, son, daughter,
14 other person related by blood or by present or prior
15 marriage, other person who shares a relationship through a
16 son or daughter, and persons jointly residing in the same
17 household.

18 (13) "Parent" means the biological parent of an
19 employee or an individual who stood in loco parentis to an
20 employee when the employee was a son or daughter. "Son or
21 daughter" means a biological, adopted, or foster child, a
22 stepchild, a legal ward, or a child of a person standing in
23 loco parentis, who is under 18 years of age, or is 18 years
24 of age or older and incapable of self-care because of a
25 mental or physical disability.

26 (14) "Perpetrator" means an individual who commits or

1 is alleged to have committed any act or threat of domestic
2 or sexual violence.

3 (15) "Person" means an individual, partnership,
4 association, corporation, business trust, legal
5 representative, or any organized group of persons.

6 (15.1) "Prevailing employee" means an employee who
7 obtains relief by administrative order, court order, or
8 whose suit or claim is settled by private agreement.

9 (16) "Public agency" means the Government of the State
10 or political subdivision thereof; any agency of the State,
11 or of a political subdivision of the State; or any
12 governmental agency.

13 (17) "Public assistance" includes cash, food stamps,
14 medical assistance, housing assistance, and other benefits
15 provided on the basis of income by a public agency or
16 public employer.

17 (18) "Reduced work schedule" means a work schedule that
18 reduces the usual number of hours per workweek, or hours
19 per workday, of an employee.

20 (19) "Repeatedly" means on 2 or more occasions.

21 (20) "Sexual assault" means any conduct proscribed by
22 the Criminal Code of 1961 in Sections 12-13, 12-14,
23 12-14.1, 12-15, and 12-16.

24 (21) "Stalking" means any conduct proscribed by the
25 Criminal Code of 1961 in Sections 12-7.3, ~~and~~ 12-7.4, and
26 12-7.5.

1 (22) "Victim" or "survivor" means an individual who has
2 been subjected to domestic or sexual violence.

3 (23) "Victim services organization" means a nonprofit,
4 nongovernmental organization that provides assistance to
5 victims of domestic or sexual violence or to advocates for
6 such victims, including a rape crisis center, an
7 organization carrying out a domestic violence program, an
8 organization operating a shelter or providing counseling
9 services, or a legal services organization or other
10 organization providing assistance through the legal
11 process.

12 (Source: P.A. 93-591, eff. 8-25-03.)

13 (820 ILCS 180/15)

14 Sec. 15. Purposes. The purposes of this Act are:

15 (1) to promote the State's interest in reducing
16 domestic violence, dating violence, sexual assault, and
17 stalking by enabling victims of domestic or sexual violence
18 to maintain the financial independence necessary to leave
19 abusive situations, achieve safety, and minimize the
20 physical and emotional injuries from domestic or sexual
21 violence, and to reduce the devastating economic
22 consequences of domestic or sexual violence to employers
23 and employees;

24 (2) to address the failure of existing laws to protect
25 the employment rights of employees who are victims of

1 domestic or sexual violence and employees with a family or
2 household member who is a victim of domestic or sexual
3 violence, by protecting the civil and economic rights of
4 those employees, and by furthering the equal opportunity of
5 women for economic self-sufficiency and employment free
6 from discrimination;

7 (3) to accomplish the purposes described in paragraphs
8 (1) and (2) by (A) entitling employed victims of domestic
9 or sexual violence and employees with a family or household
10 member who is a victim of domestic or sexual violence to
11 take unpaid leave to seek medical help, legal assistance,
12 counseling, safety planning, and other assistance without
13 penalty from their employers for the employee or the family
14 or household member who is a victim; and (B) prohibiting
15 employers from discriminating against any employee who is
16 an actual or perceived victim of domestic or sexual
17 violence or any employee who has a family or household
18 member who is an actual or perceived victim of domestic or
19 sexual violence, in a manner that accommodates the
20 legitimate interests of employers and protects the safety
21 of all persons in the workplace.

22 (Source: P.A. 93-591, eff. 8-25-03.)

23 (820 ILCS 180/20)

24 Sec. 20. Entitlement to leave due to domestic or sexual
25 violence.

1 (a) Leave requirement.

2 (1) Basis. An employee who is a victim of domestic or
3 sexual violence or has a family or household member who is
4 a victim of domestic or sexual violence whose interests are
5 not adverse to the employee as it relates to the domestic
6 or sexual violence may take unpaid leave from work to
7 address domestic or sexual violence by:

8 (A) seeking medical attention for, or recovering
9 from, physical or psychological injuries caused by
10 domestic or sexual violence to the employee or the
11 employee's family or household member;

12 (B) obtaining services from a victim services
13 organization for the employee or the employee's family
14 or household member;

15 (C) obtaining psychological or other counseling
16 for the employee or the employee's family or household
17 member;

18 (D) participating in safety planning, temporarily
19 or permanently relocating, or taking other actions to
20 increase the safety of the employee or the employee's
21 family or household member from future domestic or
22 sexual violence or ensure economic security; or

23 (E) seeking legal assistance or remedies to ensure
24 the health and safety of the employee or the employee's
25 family or household member, including preparing for or
26 participating in any civil or criminal legal

1 proceeding related to or derived from domestic or
2 sexual violence.

3 (2) Period. Subject to subsection (c), an employee
4 shall be entitled to a total of 12 workweeks of leave
5 during any 12-month period. This Act does not create a
6 right for an employee to take unpaid leave that exceeds the
7 unpaid leave time allowed under, or is in addition to the
8 unpaid leave time permitted by, the federal Family and
9 Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

10 (3) Schedule. Leave described in paragraph (1) may be
11 taken intermittently or on a reduced work schedule.

12 (b) Notice. The employee shall provide the employer with at
13 least 48 hours' advance notice of the employee's intention to
14 take the leave, unless providing such notice is not
15 practicable. When an unscheduled absence occurs, the employer
16 may not take any action against the employee if the employee,
17 upon request of the employer and within a reasonable period
18 after the absence, provides certification under subsection
19 (c).

20 (c) Certification.

21 (1) In general. The employer may require the employee
22 to provide certification to the employer that:

23 (A) the employee or the employee's family or
24 household member is a victim of domestic or sexual
25 violence; and

26 (B) the leave is for one of the purposes enumerated

1 in paragraph (a) (1).

2 The employee shall provide such certification to the
3 employer within a reasonable period after the employer
4 requests certification.

5 (2) Contents. An employee may satisfy the
6 certification requirement of paragraph (1) by providing to
7 the employer a sworn statement of the employee, and upon
8 obtaining such documents the employee shall provide:

9 (A) documentation from an employee, agent, or
10 volunteer of a victim services organization, an
11 attorney, a member of the clergy, or a medical or other
12 professional from whom the employee or the employee's
13 family or household member has sought assistance in
14 addressing domestic or sexual violence and the effects
15 of the violence;

16 (B) a police or court record; or

17 (C) other corroborating evidence.

18 (d) Confidentiality. All information provided to the
19 employer pursuant to subsection (b) or (c), including a
20 statement of the employee or any other documentation, record,
21 or corroborating evidence, and the fact that the employee has
22 requested or obtained leave pursuant to this Section, shall be
23 retained in the strictest confidence by the employer, except to
24 the extent that disclosure is:

25 (1) requested or consented to in writing by the
26 employee; or

1 (2) otherwise required by applicable federal or State
2 law.

3 Any employer that fails to maintain the required
4 confidentiality shall be liable to the prevailing employee for
5 damages of \$2,000 for each unwarranted disclosure.

6 (e) Employment and benefits.

7 (1) Restoration to position.

8 (A) In general. Any employee who takes leave under
9 this Section for the intended purpose of the leave
10 shall be entitled, on return from such leave:

11 (i) to be restored by the employer to the
12 position of employment held by the employee when
13 the leave commenced; or

14 (ii) to be restored to an equivalent position
15 with equivalent employment benefits, pay, and
16 other terms and conditions of employment.

17 (B) Loss of benefits. The taking of leave under
18 this Section shall not result in the loss of any
19 employment benefit accrued prior to the date on which
20 the leave commenced.

21 (C) Limitations. Nothing in this subsection shall
22 be construed to entitle any restored employee to:

23 (i) the accrual of any seniority or employment
24 benefits during any period of leave; or

25 (ii) any right, benefit, or position of
26 employment other than any right, benefit, or

1 position to which the employee would have been
2 entitled had the employee not taken the leave.

3 (D) Construction. Nothing in this paragraph shall
4 be construed to prohibit an employer from requiring an
5 employee on leave under this Section to report
6 periodically to the employer on the status and
7 intention of the employee to return to work.

8 (2) Maintenance of health benefits.

9 (A) Coverage. Except as provided in subparagraph
10 (B), during any period that an employee takes leave
11 under this Section, the employer shall maintain
12 coverage for the employee and any family or household
13 member under any group health plan for the duration of
14 such leave at the level and under the conditions
15 coverage would have been provided if the employee had
16 continued in employment continuously for the duration
17 of such leave.

18 (B) Failure to return from leave. The employer may
19 recover the premium that the employer paid for
20 maintaining coverage for the employee and the
21 employee's family or household member under such group
22 health plan during any period of leave under this
23 Section if:

24 (i) the employee fails to return from leave
25 under this Section after the period of leave to
26 which the employee is entitled has expired; and

1 (ii) the employee fails to return to work for a
2 reason other than:

3 (I) the continuation, recurrence, or onset
4 of domestic or sexual violence that entitles
5 the employee to leave pursuant to this Section;
6 or

7 (II) other circumstances beyond the
8 control of the employee.

9 (C) Certification.

10 (i) Issuance. An employer may require an
11 employee who claims that the employee is unable to
12 return to work because of a reason described in
13 subclause (I) or (II) of subparagraph (B)(ii) to
14 provide, within a reasonable period after making
15 the claim, certification to the employer that the
16 employee is unable to return to work because of
17 that reason.

18 (ii) Contents. An employee may satisfy the
19 certification requirement of clause (i) by
20 providing to the employer:

21 (I) a sworn statement of the employee;

22 (II) documentation from an employee,
23 agent, or volunteer of a victim services
24 organization, an attorney, a member of the
25 clergy, or a medical or other professional from
26 whom the employee has sought assistance in

1 addressing domestic or sexual violence and the
2 effects of that violence;

3 (III) a police or court record; or

4 (IV) other corroborating evidence.

5 (D) Confidentiality. All information provided to
6 the employer pursuant to subparagraph (C), including a
7 statement of the employee or any other documentation,
8 record, or corroborating evidence, and the fact that
9 the employee is not returning to work because of a
10 reason described in subclause (I) or (II) of
11 subparagraph (B)(ii) shall be retained in the
12 strictest confidence by the employer, except to the
13 extent that disclosure is:

14 (i) requested or consented to in writing by the
15 employee; or

16 (ii) otherwise required by applicable federal
17 or State law.

18 Any employer that fails to maintain the required
19 confidentiality shall be liable to the prevailing
20 employee for damages of \$2,000 for each unwarranted
21 disclosure.

22 (f) Prohibited acts.

23 (1) Interference with rights.

24 (A) Exercise of rights. It shall be unlawful for
25 any employer to interfere with, restrain, or deny the
26 exercise of or the attempt to exercise any right

1 provided under this Section.

2 (B) Employer discrimination. It shall be unlawful
3 for any employer to discharge or harass any individual,
4 or otherwise discriminate against any individual with
5 respect to compensation, terms, conditions, or
6 privileges of employment of the individual (including
7 retaliation in any form or manner) because the
8 individual:

9 (i) exercised any right provided under this
10 Section; or

11 (ii) opposed any practice made unlawful by
12 this Section.

13 (C) Public agency sanctions. It shall be unlawful
14 for any public agency to deny, reduce, or terminate the
15 benefits of, otherwise sanction, or harass any
16 individual, or otherwise discriminate against any
17 individual with respect to the amount, terms, or
18 conditions of public assistance of the individual
19 (including retaliation in any form or manner) because
20 the individual:

21 (i) exercised any right provided under this
22 Section; or

23 (ii) opposed any practice made unlawful by
24 this Section.

25 (2) Interference with proceedings or inquiries. It
26 shall be unlawful for any person to discharge or in any

1 other manner discriminate (as described in subparagraph
2 (B) or (C) of paragraph (1)) against any individual because
3 such individual:

4 (A) has filed any charge, or has instituted or
5 caused to be instituted any proceeding, under or
6 related to this Section;

7 (B) has given, or is about to give, any information
8 in connection with any inquiry or proceeding relating
9 to any right provided under this Section; or

10 (C) has testified, or is about to testify, in any
11 inquiry or proceeding relating to any right provided
12 under this Section.

13 (Source: P.A. 93-591, eff. 8-25-03.)

14 (820 ILCS 180/25)

15 Sec. 25. Existing leave usable for addressing domestic or
16 sexual violence. An employee who is entitled to take paid or
17 unpaid leave (including family, medical, sick, annual,
18 personal, or similar leave) from employment, pursuant to
19 federal, State, or local law, a collective bargaining
20 agreement, or an employment benefits program or plan, may elect
21 to substitute any period of such leave for an equivalent period
22 of leave provided under Section 20. The employer may not
23 require the employee to substitute available paid or unpaid
24 leave for leave provided under Section 20.

25 (Source: P.A. 93-591, eff. 8-25-03.)

1 (820 ILCS 180/30)

2 Sec. 30. Victims' employment sustainability; prohibited
3 discriminatory acts.

4 (a) An employer shall not fail to hire, refuse to hire,
5 discharge, constructively discharge, or harass any individual,
6 otherwise discriminate against any individual with respect to
7 the compensation, terms, conditions, or privileges of
8 employment of the individual, or retaliate against an
9 individual in any form or manner, and a public agency shall not
10 deny, reduce, or terminate the benefits of, otherwise sanction,
11 or harass any individual, otherwise discriminate against any
12 individual with respect to the amount, terms, or conditions of
13 public assistance of the individual, or retaliate against an
14 individual in any form or manner, because:

15 (1) the individual involved:

16 (A) is or is perceived to be a victim of domestic
17 or sexual violence;

18 (B) attended, participated in, prepared for, or
19 requested leave to attend, participate in, or prepare
20 for a criminal or civil court proceeding relating to an
21 incident of domestic or sexual violence of which the
22 individual or a family or household member of the
23 individual was a victim, or requested or took leave for
24 any other reason provided under Section 20; or

25 (C) requested an adjustment to a job structure,

1 workplace facility, or work requirement, including a
2 transfer, reassignment, or modified schedule, leave, a
3 changed telephone number or seating assignment,
4 installation of a lock, or implementation of a safety
5 procedure in response to actual or threatened domestic
6 or sexual violence, regardless of whether the request
7 was granted; or

8 (2) the workplace is disrupted or threatened by the
9 action of a person whom the individual states has committed
10 or threatened to commit domestic or sexual violence against
11 the individual or the individual's family or household
12 member.

13 (b) In this Section:

14 (1) "Discriminate", used with respect to the terms,
15 conditions, or privileges of employment or with respect to
16 the terms or conditions of public assistance, includes not
17 making a reasonable accommodation to the known limitations
18 resulting from circumstances relating to being a victim of
19 domestic or sexual violence or a family or household member
20 being a victim of domestic or sexual violence of an
21 otherwise qualified individual:

22 (A) who is:

23 (i) an applicant or employee of the employer
24 (including a public agency); or

25 (ii) an applicant for or recipient of public
26 assistance from a public agency; and

1 (B) who is:

2 (i) a victim of domestic or sexual violence; or

3 (ii) with a family or household member who is a
4 victim of domestic or sexual violence whose
5 interests are not adverse to the individual in
6 subparagraph (A) as it relates to the domestic or
7 sexual violence;

8 unless the employer or public agency can demonstrate that
9 the accommodation would impose an undue hardship on the
10 operation of the employer or public agency.

11 A reasonable accommodation must be made in a timely
12 fashion. Any exigent circumstances or danger facing the
13 employee or his or her family or household member shall be
14 considered in determining whether the accommodation is
15 reasonable.

16 (2) "Qualified individual" means:

17 (A) in the case of an applicant or employee
18 described in paragraph (1)(A)(i), an individual who,
19 but for being a victim of domestic or sexual violence
20 or with a family or household member who is a victim of
21 domestic or sexual violence, can perform the essential
22 functions of the employment position that such
23 individual holds or desires; or

24 (B) in the case of an applicant or recipient
25 described in paragraph (1)(A)(ii), an individual who,
26 but for being a victim of domestic or sexual violence

1 or with a family or household member who is a victim of
2 domestic or sexual violence, can satisfy the essential
3 requirements of the program providing the public
4 assistance that the individual receives or desires.

5 (3) "Reasonable accommodation" may include an
6 adjustment to a job structure, workplace facility, or work
7 requirement, including a transfer, reassignment, or
8 modified schedule, leave, a changed telephone number or
9 seating assignment, installation of a lock, or
10 implementation of a safety procedure, or assistance in
11 documenting domestic or sexual violence that occurs at the
12 workplace or in work-related settings, in response to
13 actual or threatened domestic or sexual violence.

14 (4) Undue hardship.

15 (A) In general. "Undue hardship" means an action
16 requiring significant difficulty or expense, when
17 considered in light of the factors set forth in
18 subparagraph (B).

19 (B) Factors to be considered. In determining
20 whether a reasonable accommodation would impose an
21 undue hardship on the operation of an employer or
22 public agency, factors to be considered include:

23 (i) the nature and cost of the reasonable
24 accommodation needed under this Section;

25 (ii) the overall financial resources of the
26 facility involved in the provision of the

1 reasonable accommodation, the number of persons
2 employed at such facility, the effect on expenses
3 and resources, or the impact otherwise of such
4 accommodation on the operation of the facility;

5 (iii) the overall financial resources of the
6 employer or public agency, the overall size of the
7 business of an employer or public agency with
8 respect to the number of employees of the employer
9 or public agency, and the number, type, and
10 location of the facilities of an employer or public
11 agency; and

12 (iv) the type of operation of the employer or
13 public agency, including the composition,
14 structure, and functions of the workforce of the
15 employer or public agency, the geographic
16 separateness of the facility from the employer or
17 public agency, and the administrative or fiscal
18 relationship of the facility to the employer or
19 public agency.

20 (Source: P.A. 93-591, eff. 8-25-03.)

21 (820 ILCS 180/35)

22 Sec. 35. Enforcement.

23 (a) Department of Labor.

24 (1) The Director or his or her authorized
25 representative shall administer and enforce the provisions

1 of this Act. Any employee or a representative of employees
2 who believes his or her rights under this Act have been
3 violated may, within 3 years after the alleged violation
4 occurs, file a complaint with the Department requesting a
5 review of the alleged violation. A copy of the complaint
6 shall be sent to the person who allegedly committed the
7 violation, who shall be the respondent. Upon receipt of a
8 complaint, the Director shall cause such investigation to
9 be made as he or she deems appropriate. The investigation
10 shall provide an opportunity for a public hearing at the
11 request of any party to the review to enable the parties to
12 present information relating to the alleged allegation.
13 The parties shall be given written notice of the time and
14 place of the hearing at least 7 days before the hearing.
15 Upon receiving the report of the investigation, the
16 Director shall make findings of fact. If the Director finds
17 that a violation did occur, he or she shall issue a
18 decision incorporating his or her findings and requiring
19 the party committing the violation to take such affirmative
20 action to abate the violation as the Director deems
21 appropriate, including:

22 (A) damages equal to the amount of wages, salary,
23 employment benefits, public assistance, or other
24 compensation denied or lost to such individual by
25 reason of the violation, and the interest on that
26 amount calculated at the prevailing rate;

1 (A-5) compensatory damages for emotional distress;
2 (A-10) liquidated damages of \$5,000 to any
3 employee aggrieved by the failure of an employer to
4 post the notice required under Section 40;

5 (B) such equitable relief as may be appropriate,
6 including but not limited to hiring, reinstatement,
7 promotion, and reasonable accommodations; and

8 (C) reasonable attorney's fees, reasonable expert
9 witness fees, and other costs of the action to be paid
10 by the respondent to a prevailing employee.

11 If the Director finds that there was no violation, he
12 or she shall issue an order denying the complaint. An order
13 issued by the Director under this Section shall be final
14 and subject to judicial review under the Administrative
15 Review Law.

16 (2) The Director shall adopt rules necessary to
17 administer and enforce this Act in accordance with the
18 Illinois Administrative Procedure Act. The Director shall
19 have the powers and the parties shall have the rights
20 provided in the Illinois Administrative Procedure Act for
21 contested cases, including, but not limited to, provisions
22 for depositions, subpoena power and procedures, and
23 discovery and protective order procedures.

24 (3) Intervention. The Attorney General of Illinois may
25 intervene on behalf of the Department if the Department
26 certifies that the case is of general public importance.

1 Upon such intervention the court may award such relief as
2 is authorized to be granted to an employee who has filed a
3 complaint or whose representative has filed a complaint
4 under this Section.

5 (b) Refusal to pay damages. Any employer who has been
6 ordered by the Director of Labor or the court to pay damages
7 under this Section and who fails to do so within 30 days after
8 the order is entered is liable to pay a penalty of 1% per
9 calendar day to the employee for each day of delay in paying
10 the damages to the employee.

11 (Source: P.A. 93-591, eff. 8-25-03.)

12 (820 ILCS 180/37 new)

13 Sec. 37. Private right of action. Any employee or
14 representative of employees aggrieved by a violation of this
15 Act or any rule adopted under this Act may file suit in circuit
16 court, in the county where the alleged offense occurred,
17 without regard to exhaustion of any alternative administrative
18 remedies provided under this Act. Actions may be brought by one
19 or more individuals for and on behalf of themselves and other
20 individuals similarly situated. An individual whose rights
21 have been violated under this Act may seek any and all remedies
22 provided in this Act, including reasonable attorney's fees for
23 the prevailing employee, whether those remedies are obtained
24 through a court order or a suit or claim is settled by private
25 agreement.

1 (820 ILCS 180/40)

2 Sec. 40. Notification. Every employer covered by this Act
3 shall post and keep posted, in conspicuous places on the
4 premises of the employer where notices to employees are
5 customarily posted, a notice, to be prepared or approved by the
6 Director of Labor, summarizing the requirements of this Act and
7 information pertaining to the filing of a charge or law suit.
8 The Director shall furnish copies of summaries and rules to
9 employers upon request without charge. Any employer that fails
10 to post the required notice may not rely on the provisions in
11 subsection (b) of Section 20 to claim that the employee failed
12 to inform the employer that she or he wanted or was eligible
13 for leave under this Act.

14 (Source: P.A. 93-591, eff. 8-25-03.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.